THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.NO.24461 OF 2000

ORDER:

This writ petition is filed seeking a mandamus declaring the order passed by the respondent in Memo No.CE/Enq./DM.V/301-P1/93-14, dated 10.11.1996 imposing punishment of stoppage of two increments with cumulative effect as confirmed on appeal in Memo No.CE/DM.V/301-P1/93-20, dated 10.02.1998, as arbitrary and illegal.

Under the impugned proceedings, dated 10.11.1996, after conducting a detailed enquiry into the allegations made against the petitioner, the Disciplinary Authority imposed punishment of stoppage of two increments with cumulative effect. Aggrieved by the same, the petitioner carried the matter in appeal to the board and the decision of the board was communicated to him by proceedings, dated 10.02.1998, by the Member Secretary.

Learned counsel for the petitioner stated that the Enquiry Officer has submitted a report holding that the charges are not proved against the petitioner. Further the Disciplinary Authority itself has considered the appeal filed by him and therefore, there was no consideration of the appeal and no authority can sit over in appeal against its own judgment. Therefore, the impugned orders are liable to be set aside.

Per contra, learned counsel for the respondent strenuously contended that the writ petition is devoid of merits and liable to be

dismissed. May be the Enquiry Officer has submitted a report holding that the charges are not proved, but the Disciplinary Authority after issuing show cause notice reconsidered the matter and came to the conclusion that the charges are proved, and the petitioner deserves to be imposed with a punishment of stoppage of increments. A second show cause notice was issued and final decision was taken having not satisfied with the explanation submitted by the petitioner. Aggrieved by the same, the petitioner filed an appeal before the Board. It is the Board's decision, which was communicated by the Member Secretary. Therefore, it cannot be said that the Appellate Authority and the Disciplinary Authority are one and the same.

I have given my earnest consideration to the respective submissions made by the counsel on either side and also perused the material made available on record.

The petitioner was charged that he failed to discharge his statutory duties and it led to shortfall of consumption and consequent huge financial loss to the board in view of petitioner's collusion with the consumer. After conducting an enquiry the Disciplinary Authority did not agree with the findings of the Enquiry Officer and re-appreciated the evidence and issued a show cause notice holding that the petitioner is guilty of the charge and proposing to impose the punishment of stoppage of two increments with cumulative effect. The said order has been confirmed by the Board. Therefore, it cannot be said that there is any illegality committed by the Disciplinary Authority or by the Appellate Authority in confirming the order passed by the

Disciplinary Authority. Further the contention of the learned counsel for the petitioner that the Appellate Authority and Disciplinary Authority are one and the same and no Disciplinary Authority can sit over in appeal against an order passed by itself, cannot be countenanced, since the order dated 10.02.1998 itself indicates that the board has taken a decision and the decision of the board has been communicated to the petitioner.

Learned counsel for the petitioner relied upon various judgments to show that the Appellate Authority and the Disciplinary Authority cannot be the same and the Disciplinary Authority cannot sit over as an Appellate Authority against its own order. In view of the above factual position there is no necessity of going into details of the judgments referred to. Under these circumstances, the writ petition is devoid of merit and is liable to be dismissed.

Accordingly the writ petition is dismissed. No costs.

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C.V.RAMULU,J

Dated: 17.04.2007
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